



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1913

DATE SCANNED 3/29/10

SCANNER NO. 2

SCAN OPERATOR SEA

10092650565



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

December 16, 2008

MEMORANDUM

TO: THE COMMISSION

THROUGH: JOSEPH F. STOLTZ *JS*
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *JG*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER/CHRIS RITCHIE *NR* *RM*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION - 2008 OCTOBER
QUARTERLY REPORT (NON-ELECTION SENSITIVE) FOR THE
ADMINISTRATIVE FINE PROGRAM

2008 DEC 16 02

RECEIVED
STANDARD

Attached is a list of political committees and their treasurers who failed to file the 2008 October Quarterly Report in accordance with 2 U.S.C. 434(a). The October Quarterly Report was due on October 15, 2008.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report more than five (5) days after the due date, or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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Federal Election Commission
Reason to Believe Circulation Report
2008 OCTOBER QUARTERLY Not Election Sensitive 10/15/2008 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1910	C00439899	BALDERMANN FOR CONGRESS	BALDERMANN, TIM	TIM BALDERMANN	\$157,306	0		Not Filed	\$157,306 (est)	\$5,500
1911	C00438535	BENJAMIN LODMELL FOR U S CONGRESS	LODMELL, BENJAMIN	BENJAMIN LODMELL	\$121,932	0		Not Filed	\$40,844 (est)	\$900
1912	C00436780	BOB OLSON FOR U S SENATE	OLSON, ROBERT A.	LEE CONNERTON	\$158,365	0		Not Filed	\$31,273 (est)	\$900
1913	C00411603	CHARLIE STUART FOR CONGRESS	STUART, CHARLES	JEFFREY S. BERGER	\$1,347,270	1	11/25/2008	Not Filed	\$292,587	\$10,000
1914	C00415422	DELECIA HOLT FOR CONGRESS COMMITTEE	HOLT, DELECIA ANN	WHITNEY HARRIS	\$370,187	0		Not Filed	\$61,688 (est)	\$2,700
1915	C00451864	DR SANDRA B LIVINGSTONE FOR CONGRESS	LIVINGSTONE, SANDRA B. DR.	ELEANOR L. BUNN	\$284,544	0		Not Filed	\$132,272 (est)	\$4,500
1916	C00433813	EILEEN DONOGHUE FOR CONGRESS COMMITTEE	DONOGHUE, EILEEN	TIMOTHY J. SULLIVAN	\$1,680,423	0		Not Filed	\$240,060 (est)	\$6,500
1917	C00448423	GREG SOWARDS FOR CONGRESS LLC	SOWARDS, GREGORY EDDIE	KIMBALL HAKES	\$628,017	0		Not Filed	\$208,339 (est)	\$8,500
1918	C00445775	JOE PENNACCHIO FOR U S SENATE	PENNACCHIO, JOSEPH	ALAN ZAKIN	\$853,114	0	10/23/2008	8	\$19,315	\$140
1919	C00437863	KEVIN POWELL FOR CONGRESS	POWELL, KEVIN	TYRA WASHINGTON	\$142,419	1		Not Filed	\$35,805 (est)	\$1,125
1920	C00444844	KOPLIN FOR CONGRESS	KOPLIN, ANDREW DAVID	RALPH J. STEPHENS	\$882,097	1	10/30/2008	15	\$8	\$125
1921	C00444406	OGONOWSKI FOR SENATE	OGONOWSKI, JAMES	KATHLEEN HAAS OGONOWSKI	\$1,108,035	0	11/13/2008	29	\$3,913	\$170

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12/16/2008 10:28 AM

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1922	C00443558	SABRIN FOR SENATE	SABRIN, MURRAY	CHRISTOPHER R. WHALEN, CPA	\$1,315,150	0	11/19/2008	Not Filed	\$12,867	\$500
1923	C00443465	SEAN OKANE FOR US CONGRESS COMMITTEE	OKANE, SEAN THOMAS	WILLIAM J. SAMMON	\$231,618	1		Not Filed	\$1,000	\$312
1924	C00414821	STEVE RATHJE FOR US SENATE	RATHJE, STEVE	KENNETH R. KOLEK	\$210,598	0		Not Filed	\$30,085 (est)	\$900

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2008)
October Quarterly Report (Non-Election)
Sensitive) for The Administrative Fine)
Program:)
OGONOWSKI FOR SENATE, and) AF# 1921
KATHLEON IIAAS OGONOWSKI as)
treasurer;)
KOPPLIN FOR CONGRESS, and RALPH) AF# 1920
J STEPHENS as treasurer;)
JOE PENNACCHIO FOR U S SENATE,) AF# 1918
and ALAN ZAKIN as treasurer;)
BENJAMIN LODMELL FOR U S) AF# 1911
CONGRESS, and BENJAMIN LODMELL)
as treasurer;)
BOB OLSON FOR U S SENATE, and LEE) AF# 1912
CONNERTON as treasurer;)
CHARLIE STUART FOR CONGRESS,) AF# 1913
and JEFFREY S. BERGER as treasurer;)
DELECIA HOLT FOR CONGRESS) AF# 1914
COMMITTEE, and WHITTNEY HARRIS)
as treasurer;)
DR SANDRA B LIVINGSTONE FOR) AF# 1915
CONGRESS, and ELEANOR L BUNN as)
treasurer;)
EILEEN DONOGHUE FOR CONGRESS) AF# 1916
COMMITTEE, and TIMOTHY J)
SULLIVAN as treasurer;)
GREG SOWARDS FOR CONGRESS) AF# 1917
LLC, and KIMBALL HAKES as treasurer;)
KEVIN POWELL FOR CONGRESS, and) AF# 1919
TYRA WASHINGTON as treasurer;)
SABRIN FOR SENATE, and) AF# 1922
CHRISTOPHER R WHALEN CPA as)
treasurer;)

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SEAN O'KANE FOR US CONGRESS) AF# 1923
COMMITTEE, and WILLIAM J)
SAMMON as treasurer,)
STEVE RATHJE FOR US SENATE, and) AF# 1924
KENNETH R KOLEK as treasurer;)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby
certify that on December 18, 2008 the Commission took the following actions on the
Reason To Believe Recommendation - 2008 October Quarterly Report (Non-Election
Sensitive) for The Administrative Fine Program as recommended in the Reports Analysis
Division's Memorandum dated December 16, 2008, on the following committees:

AF#1921 Decided by a vote of 6-0 to: (1) find reason to believe that OGONOWSKI
FOR SENATE, and KATHLEON HAAS OGONOWSKI as treasurer violated 2 U.S.C.
434(a) and make a preliminary determination that the civil money penalty would be the
amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly,
Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the
decision.

AF#1920 Decided by a vote of 6-0 to: (1) find reason to believe that KOPPLIN FOR
CONGRESS, and RALPH J STEPHENS as treasurer violated 2 U.S.C. 434(a) and make
a preliminary determination that the civil money penalty would be the amount indicated
on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II,
Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1918 Decided by a vote of 6-0 to: (1) find reason to believe that JOE
PENNACCHIO FOR U S SENATE, and ALAN ZAKIN as treasurer violated 2 U.S.C.
434(a) and make a preliminary determination that the civil money penalty would be the
amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly,
Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the
decision.

AF#1911 Decided by a vote of 6-0 to: (1) find reason to believe that BENJAMIN
LODMELL FOR U S CONGRESS, and BENJAMIN LODMELL as treasurer violated 2
U.S.C. 434(a) and make a preliminary determination that the civil money penalty would

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be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1912 Decided by a vote of 6-0 to: (1) find reason to believe that BOB OLSON FOR U S SENATE, and LEE CONNERTON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1913 Decided by a vote of 6-0 to: (1) find reason to believe that CHARLIE STUART FOR CONGRESS, and JEFFREY S. BERGER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1914 Decided by a vote of 6-0 to: (1) find reason to believe that DELECIA HOLT FOR CONGRESS COMMITTEE, and WHITTNEY HARRIS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1915 Decided by a vote of 6-0 to: (1) find reason to believe that DR SANDRA B LIVINGSTONE FOR CONGRESS, and ELEANOR L BUNN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1916 Decided by a vote of 6-0 to: (1) find reason to believe that EILEEN DONOGHUE FOR CONGRESS COMMITTEE, and TIMOTHY J SULLIVAN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1917 Decided by a vote of 6-0 to: (1) find reason to believe that GREG SOWARDS FOR CONGRESS LLC, and KIMBALL HAKES as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#1919 Decided by a vote of 6-0 to: (1) find reason to believe that KEVIN POWELL FOR CONGRESS, and TYRA WASHINGTON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1922 Decided by a vote of 6-0 to: (1) find reason to believe that SABRIN FOR SENATE, and CHRISTOPHER R WHALEN CPA as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1923 Decided by a vote of 6-0 to: (1) find reason to believe that SEAN O'KANE FOR US CONGRESS COMMITTEE, and WILLIAM J SAMMON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1924 Decided by a vote of 6-0 to: (1) find reason to believe that STEVE RATHJE FOR US SENATE, and KENNETH R KOLEK as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

December 23, 2008
Date

Mary W. Dove
for Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 22, 2008

Jeffrey S. Berger
Charlie Stuart for Congress
P.O. Box 560908
Orlando, FL 32856

C00411603
AF#: 1913

Dear Jeffrey S. Berger:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through September 30th, shall be filed no later than October 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act was further amended in 1999 to permit the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. 434(a). 2 U.S.C. 437g(a)(4). On 12/18/2008, the FEC found that there is reason to believe ("RTB") that Charlie Stuart for Congress and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before October 15th. Based on the FEC's schedules of civil money penalties at 11 C.F.R. 111.43, the amount of your civil money penalty calculated at the RTB stage is \$10,000. It is due by 1/27/2009 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$292,587
Number of Days Late: Not Filed
Number of Previous Civil Money Penalties Assessed: 1

To Pay the Calculated Civil Money Penalty

To pay the calculated civil money penalty, send the enclosed remittance and your payment to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

To Challenge the RTB Finding and/or Calculated Civil Money Penalty

To challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found on page one, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received by

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1/27/2009. Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty. The FEC will only consider challenges that are based on a factual error in the RTB finding; miscalculation of the calculated civil money penalty by the FEC; or your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, a failure of Commission computers or Commission-provided software despite you seeking technical assistance from Commission personnel and resources; a widespread disruption of information transmissions over the Internet that is not caused by the Commission's or your computer systems or Internet service provider; and severe weather or other disaster-related incident. **Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, negligence; delays caused by vendors or contractors; treasurer and staff illness, inexperience or unavailability; committee computer, software, or internet service provider failures; failure to know filing dates; and failure to use filing software properly.** Your response must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. 111.35.

Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of your right to present such argument in a petition to the district court under 2 U.S.C. 437g. 11 C.F.R. 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

If You Do Not Pay the Calculated Civil Money Penalty or Submit a Challenge

If you do not pay the calculated civil money penalty or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Charlie Stuart for Congress and you, as treasurer, violated 2 U.S.C. 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 et seq. The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. 111.45.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on

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the public record in accordance with 11 C.F.R. 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at www.FEC.gov. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "DFM II", with a stylized flourish at the end.

Donald F. McGahn II
Chairman

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. 111.43, the amount of your civil money penalty calculated at RTB is \$10,000 for the 2008 October Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by 1/27/2009. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Charlie Stuart for Congress

FEC ID#: C00411603

AF#: 1913

PAYMENT DUE DATE: 1/27/2009

PAYMENT AMOUNT DUE: \$10,000

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2009 JAN 22 A 11:40
January 20, 2009

Federal Elections Committee
Office of Administrative Review
999 E Street, NW
Washington, DC 20463

C00411603
AF#: 1913

Challenge to the RTB Finding:

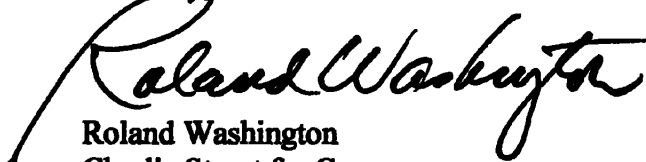
Having been retained as campaign manager by the Charlie Stuart for Congress Campaign Committee, and having accepted the ongoing associated responsibilities delegated to me by the Committee as its agent/representative for all post-election business, I, Roland Washington, herein petitions the FEC's Office of Administrative Review to consider the below stated challenges to the referenced RTB finding.

Your letter details that the determination was based of four factors, one of which was "Number of Days Late: Not Filed." Your letter was dated December 22, 2008, yet the referenced report was completed and posted on the FEC website on November 25, 2008.

Secondly, your customer service records must reveal that I engaged at least one phone conversation in advance of submitting that report, wherein I expressed that we could not gain access to any of our data in that all access protocol had been kept exclusively by the individual retained during the campaign as the finance director. That individual had failed to respond to repeated requests for the data as time passed beyond the due date for the filing. Hence, in that same conversation, your service agent suggested I submit a miscellaneous document explaining this "uncontrollable" situation. That document was also filed on or before November 25, 2008.

Given these facts and an earnest attempt to reach out to the FEC and advise of an uncontrollable situation even before the fortune of solving the problem, and in that the former candidate, in lieu of any formal committee of individuals, is physically unable to continue to bear the financial burden of having made the decision to run for this seat, it is my hope that your office will find a resolution in our favor.

Sincerely,



Roland Washington
Charlie Stuart for Congress

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

January 23, 2009

Jeffrey S. Berger, as Treasurer
Charlie Stuart for Congress
P.O. Box 560908
Orlando, FL 32856

C00411603
AF# 1913

Dear Mr. Berger:

On January 22, 2009, the Commission received a written response ("challenge") from Roland Washington which is being reviewed by the Office of Administrative Review. If you have any questions regarding the challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink that reads "Shawn Woodhead Werth". The signature is written in a cursive, flowing style.

Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

10092650578

Date: January 29, 2009

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW
CHALLENGE RECEIVED**

AF#: 1913

Committee Name: Charlie Stuart for Congress

Committee ID#: C00411603

Committee Address (if different than in RTB letter): N/A

Treasurer Name (if different than in RTB finding): N/A

Attachments:

**Copy of RTB Circulation Report, dated December 16, 2008 and RTB
Certification, dated December 23, 2008: Y**

Attachment #: 1

Certified Return Receipt (Y/N): Y

Attachment #: 2

Other Relevant Telecoms (Y/N): N

Attachment #: N/A

Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N

Attachment #: N/A

RAD Staff Declaration (Y/N): Y

-Prior Notice, dated September 21, 2008.

-Non-Filer Letter, dated November 4, 2008.

-RTB Letter, dated December 22, 2008.

Attachment #: 4

Other RAD Information: (Y/N): N

Attachment#: N/A

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SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeffrey S. Berger
Charlie Stuart For Congress
P.O. Box 560908
Orlando, FL 32856

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *CHARLIE STUART*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Charlie Stuart

C. Date of Delivery

DEC 29 2008

D. Is delivery address different from Item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Article Number

(Transfer from service label)

7005 1820 0002 8463 2128

Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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DECLARATION OF NATALIYA IOFFE

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Charlie Stuart for Congress:
 - A) Prior Notice, dated September 21, 2008, referencing the 2008 October Quarterly Report (sent via electronic mail to: manager@charliestuartforcongress.com);
 - B) Non-Filer Letter, dated November 4, 2008, referencing the 2008 October Quarterly Report;
 - C) Reason-to-Believe Letter, dated December 22, 2008, referencing the 2008 October Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that Charlie Stuart for Congress filed the 2008 October Quarterly Report with the Commission on November 25, 2008.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 29th day of January, 2009.



Nataliya Ioffe
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission



OCTOBER QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

September 21, 2008

CURRENT REPORT DUE

REPORTING DATES

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
October Quarterly	07/01/08 - 09/30/08	10/15/08	10/15/08

PRE- AND POST-ELECTION REPORTS

A committee whose candidate participates in a 2008 state primary, nominating convention or runoff election – even if unopposed – must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. Separate notices will be sent to explain these additional reporting obligations. See the January 2008 Record, which can be found on the FEC web site at www.fec.gov/pdf/record/2008/jan08.pdf

Supplemental Filing Information is available on pages 3 and 4 of this notice.

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

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REPORTING SCHEDULE FOR REMAINDER OF 2008

REPORTING DATES

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General	10/01/08 - 10/15/08	10/20/08	10/23/08
48 Hour Notices	10/16/08 - 11/01/08	---see p. 4 of notice---	
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 ²

PRE- AND POST-ELECTION REPORTS

A committee whose candidate participates in a 2008 state primary, nominating convention or runoff election – even if unopposed – must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. Separate notices will be sent to explain these additional reporting obligations. See the January 2008 Record, which can be found on the FEC web site at www.fec.gov/pdf/record/2008/jan08.pdf.

Supplemental Filing Information is available on pages 3 and 4 of this notice.

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

²Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for Senate candidates, the Secretary of the Senate's) close of business on the last business day before the deadline.

SUPPLEMENTAL FILING INFORMATION

PLEASE NOTE: The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

WHO MUST FILE

Principal campaign committees of congressional candidates³ (including unopposed candidates and candidates whose names do not appear on the ballot) must file an October Quarterly Report by October 15, 2008.⁴

Campaigns that raise or spend more than \$5,000 for the 2008 election cycle (and thus trigger registration and reporting requirements) must file quarterly reports throughout 2008, even if the candidate plans to retire, withdraws from the race prior to the primary election, loses the primary or drops out of the race prior to the general election. Before a committee can stop filing with the FEC, it must file a termination report with the Commission. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

METHODS OF FILING REPORTS

Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. For additional information, call the Electronic Filing Office at (800) 424-9530 or (202) 694-1642 or visit our website at www.fec.gov/electfil/electron.shtml.

Under the Commission's mandatory electronic filing regulations, U.S. House committees that receive contributions or make expenditures in excess of \$50,000 in a calendar year, or that have reason to expect to do so, must file all reports and statements with the FEC electronically. Other U.S. House committees may voluntarily file electronically; however, any entity that files electronically, whether required to do so or not, must comply with the electronic filing rules. U.S. Senate committees that file with the Secretary of the Senate are not subject to the mandatory electronic filing rules, but may file an unofficial copy of their reports with the Commission in order to speed disclosure.

Registered & Certified Mail

Reports sent by Registered or Certified Mail must be postmarked on or before the mailing deadline to be considered timely filed. A committee sending its reports by Certified Mail should keep its certified mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by Certified Mail. A committee sending its report by Registered Mail should keep its proof of mailing. Note that a Certificate of Mailing from the USPS is not sufficient to prove that a report is timely filed using Registered, Certified or Overnight Mail.

Overnight Mail

Reports filed via overnight mail will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight delivery service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.

³Generally, an individual becomes a candidate for Federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. If the campaign has not exceeded the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a).

⁴If a candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z.

Other Means of Filing

Reports filed by any other means—including first class mail and courier—must be received by the Commission (or for Senate committees, the Secretary of the Senate) before the close of business on the last business day before the filing deadline.

Forms are available for downloading and printing at the FEC website at www.fec.gov/info/forms.shtml.

48 HOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives any contribution (including in-kind gifts or advances of goods or services; Loans from the candidate or other non-bank sources; and guarantees or endorsements of bank loans to the candidate or committee) of \$1,000 or more per source, during the period less than 20 days but more than 48 hours before any election in which the candidate is running.

The notices, which may be filed using Form 6, or under limited circumstances Form 10, must reach the appropriate federal and/or state filing office(s) within 48 hours of the committee's receipt of the contribution(s). U.S. Senate candidates must transmit the notices to the Secretary of the Senate by fax at (202) 224-1851. **Campaign committees that file electronically MUST submit their 48-hour notices electronically.** For more information, visit the FEC web site at www.fec.gov/electfil/online.shtml. U.S. House candidates faxing 48-hour notices should transmit them to the FEC at (202) 219-0174. Paper forms are available at the FEC web site at www.fec.gov/info/forms.shtml.

COMPLIANCE

Treasurer Responsibility. Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. For additional information, see the Commission's *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings* on the web site at www.fec.gov/law/policy/2004/notice2004-20.pdf.

Administrative Fine Program. Under the Administrative Fine Program, political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$16,000 (or more for repeat late- and non-filers).⁵ For additional information, visit the FEC website at www.fec.gov/af/af.shtml.

Report Format. In addition, political committees that file illegible reports or use non-FEC forms (except for FEC-approved, computer-generated forms) will be required to refile their reports.

Electronic Filers Must File Electronically. Electronic filers who instead file on paper, or who submit an electronic report (either by direct transmission, 3.5" diskette or CD) that does not pass the validation program by 11:59 p.m. Eastern Time on the filing deadline, will be considered non-filers and may be subject to enforcement actions (including administrative fines).

IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.⁶ This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail service, and hand delivery.

⁵Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions not timely disclosed. As a result, these penalties may exceed \$16,000, even for first-time violations.

⁶Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more on filing reports via US mail.

FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 2008

RQ-7

JEFFREY S. BERGER, TREASURER
CHARLIE STUART FOR CONGRESS
P.O. BOX 560908
ORLANDO, FL 32856

IDENTIFICATION NUMBER: C00411603

REFERENCE: OCTOBER QUARTERLY REPORT 8/7/2008 - 9/30/2008

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510, FOR SENATE CANDIDATES. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT WWW.FEC.GOV.

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT CHRISTOPHER RITCHIE AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

A handwritten signature in cursive script, reading "Patricia Carmona", is written over the typed name.

PATRICIA CARMONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION (RAD)

2803991319992650586



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION
2007 MAR 26 P 4:24

SENSITIVE

March 26, 2009

MEMORANDUM

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Welch
Reviewing Officer
Office of Administrative Review

By: Jill I. Sugarman
Reviewing Analyst

Subject: AF# 1913 – Charlie Stuart for Congress and Jeffrey S. Berger, as
Treasurer (C00411603)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

10092650587



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 26, 2009

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 1913 – Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer (C00411603)

On December 18, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report, a non-election sensitive report, and made a preliminary determination that the civil money penalty was \$10,000 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on December 22, 2008 of the Commission's RTB finding and civil money penalty.

Respondents' Response

On January 22, 2009, the Commission received the written response ("challenge") from Roland Washington, on behalf of the respondents, who claims that the RTB letter is incorrect in stating that the report was "Not Filed" since the Commission's website shows that the report was filed on November 25, 2008. They could not access the needed data prior to the filing deadline because their access protocol was held exclusively by the finance director, who did not respond to their repeated requests for it. He notified the Commission before submitting the report and was advised to submit a miscellaneous document to explain this uncontrollable situation. He filed that document on or before November 25. He asks for a resolution in their favor because he reached out to the Commission before the situation was resolved. The Candidate is also physically unable to bear the financial burden of his decision to run for office. Included with the challenge is the first page of the RTB letter.

Analysis

The October Quarterly Report was filed on November 25, 2008, 41 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of an authorized committee of a candidate shall file a report for the period ending September 30 no later than October 15. 2 U.S.C. § 434(a)(2)(A)(iii) and 11 C.F.R. § 104.5(a)(1)(i). Reports electronically filed must be received and validated at or before 11:59 p.m., Eastern Standard/Daylight Time on the prescribed filing date to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

On October 16, the day after the filing deadline, the Electronic Filing Office ("EFO") sent an email to the respondents at the address they previously provided, laura@charliestuartforcongress.com, informing them that they failed to file the report. They were notified again when RAD sent the Non-Filer Notice on November 4. There is no indication from the RAD telecoms (written records of telephone conversations) that they contacted anyone in response to these notifications. Instead, they waited until November 24 (40 days after the report was due) to contact RAD. At that point, Mr. Washington told the Analyst that the staff

10092650588

person who did the reporting was holding the report hostage and they had to contact NGP to gain access to the data. The Analyst advised him to submit an electronic letter to explain the situation and file the report as soon as possible. On November 25, they filed an electronic letter in which they acknowledged responsibility for the late filing and said it was due to miscommunication and issues with staff responsiveness. The October Quarterly Report was filed later that day.

Although Mr. Berger served as Treasurer and Mr. Washington served as the Custodian of Records as well as the Campaign Manager, it appears that another Committee employee, the Finance Director, was the only person who could access the data needed to file the report because this person had exclusive protocol access to the Committee's records. If the respondents mean by protocol access that they did not have access to the Committee's electronic filing password, the Treasurer could have requested a new password from the EFO at any time, but there is no indication of him having done so. Regardless of who had the records, prepared the report, and electronically filed it, it is still the Treasurer's responsibility to file reports on time.

The respondents also refute the RTB letter, which states that the report was not filed. Four criteria are used to calculate civil money penalties, one of which is whether the report is considered filed late or not filed. The October Quarterly Report is a non-election sensitive report. If a non-election sensitive report is filed more than 30 days after its due date, it is considered to be not filed. In this case, the October Quarterly Report was filed 41 days after the due date; thus, it is considered "not filed" under the administrative fine regulations for purpose of the civil money penalty calculation. 11 C.F.R. §§ 111.43(a)(2), (d) and (e).

Negligence and unavailability of staff are included at 11 C.F.R. § 111.35(d) as examples of circumstances that are not considered reasonably unforeseen and beyond the respondents' control. The other issues raised in the challenge (they contacted the Commission for advice before they filed the report and the Candidate cannot physically bear the financial burden) also do not fall within the list of defenses enumerated at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The Reviewing Officer, therefore, recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$10,000.

10092650589

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1913 involving Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1913 that Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$10,000; and
- (3) Send the appropriate letter.

Reviewing Analyst: Jill I. Sugarman

Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 – _____

Attachment 3 – Declaration from RAD _____

Attachment 4 – Declaration from OAR

DECLARATION OF JILL I. SUGARMAN

1. I am the Reviewing Analyst in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Analyst, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2008 October Quarterly Report is due October 15, 2008. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on October 15 to be timely filed.
3. I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
 - (a) Pages 1 and 3 for the paper copy of the amended Statement of Organization for Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer. According to the Commission's records, the document is dated September 10, 2007 and was received on September 19, 2007. Lines 7 and 8 list Ronald Washington as the Custodian of Records and Jeffrey Berger as the Treasurer, respectively;
 - (b) Page 1 of the Summary Page for the 2008 October Quarterly Report electronically filed by Charlie Stuart for Congress, and Jeffrey S. Berger, as Treasurer. According to the Commission's records, the report covers the period from August 7 through September 30, 2008, and was received on November 25, 2008; and
 - (c) electronic submission filed by Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer. According to the Commission's records, the letter was received on November 25, 2008 and states that "[w]e acknowledge responsibility for this significantly late filing, which is due in fact to miscommunication [sic] and issues with the responsiveness of staff formerly responsible for all filings [sic]."
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 26th of March, 2009.



Jill I. Sugarman
Reviewing Analyst
Office of Administrative Review
Federal Election Commission

10092650591

FEC
FORM 1

STATEMENT OF
ORGANIZATION

RECEIVED
FEC MAIL CENTER
2007 SEP 19 AM 10: 01

Office Use Only

1. NAME OF
COMMITTEE (in full)



(Check if name
is changed)

Example: If typing, type
over the lines.

12FE4M5

Charlie Stuart For Congress

ADDRESS (number and street)

P.O. Box 560908



(Check if address
is changed)

Orlando

FL

32856-0908

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

managemacharliestuartforcongress.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

www.CharlieStuartforCongress.com

COMMITTEE'S FAX NUMBER

407-249-6569

2. DATE

09/10/2007

3. FEC IDENTIFICATION NUMBER ▶

C00411603

4. IS THIS STATEMENT



NEW (N)

OR



AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Jeffrey Berger

Signature of Treasurer

Jeffrey Berger

Date

09/10/2007

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office
Use
Only

For further information contact:
Federal Election Commission
Toll Free 800-424-9630
Local 202-694-1100

FEC FORM 1
(Revised 02/2003)

FE2AND02

10092650592

27039524020

Write or Type Committee Name

7. Custodian of Records: Identify by name, address (phone number - optional) and position of the person in possession of committee books and records.

Full Name

ROLAND WASHINGTON

Mailing Address

P O Box 560908

Orlando

FL

32854-0908

Title or Position

CITY

STATE

ZIP CODE

Manager

Telephone number

678-596-5918

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name
of Treasurer

Jeffrey Berger

Mailing Address

P O Box 560908

Orlando

FL

32854-0908

Title or Position

CITY

STATE

ZIP CODE

Treasurer

Telephone number

1071-230-2125

Full Name of
Designated
Agent

ROLAND WASHINGTON

Mailing Address

P O Box 560908

Orlando

FL

32854-0908

Title or Position

CITY

STATE

ZIP CODE

Manager

Telephone number

678-596-0908

10092650593

27039524022

**FEC
FORM 3****REPORT OF RECEIPTS
AND DISBURSEMENTS**

For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) **USE FEC MAILING LABEL OR TYPE OR PRINT** Example: If typing, type over the lines

Charlie Stuart for Congress

ADDRESS (number and street)

P.O. Box 560908

Check if different
than previously
reported. (ACC)

Orlando

FL

32856

2. FEC IDENTIFICATION NUMBER

C00411603

CITY

STATE

ZIP CODE

STATE DISTRICT

3. IS THIS
REPORT

X

NEW
(N)

OR

AMENDED
(A)

FL

08

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

X October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on

in the
State of

(c) 30-Day POST-Election Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

in the
State of

5. Covering Period

08

07

2008

through

09

30

2008

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Jeff Berger

Signature of Treasurer

Electronically Filed by Jeff Berger

Date

11

25

2008

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C 437g.

Office
Use
Only**FEC FORM 3**
(Revised 02/2003)

ETEXT ATTACHMENT

11/25/2008 17 : 34

We acknowledge responsibility for this significantly late filing, which is due in fact to miscommuunication and issues with the responsiveness of staff formerly responsible for all filiings. We have discussed this problem openly with our FEC analyst, and here now offer this statement as per her suggestion.

10092650595

.....



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DATE & TIME OF TRANSMITTAL: Friday, May 01, 2009 12:00

BALLOT DEADLINE: Wednesday, May 13, 2009 4:00

COMMISSIONER: BAUERLY, HUNTER, MCGAHN, PETERSEN, WALTHER, WEINTRAUB

SUBJECT: **Final Determination Recommendation in AF 1913 – Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer (C00411603). Memorandum from the Chief Compliance Officer and the Reviewing Officer dated April 30, 2009.**

- () I approve the recommendation(s)
- () I object to the recommendation(s)
- () I am recused from voting.
- () No vote by ballot.

COMMENTS: _____

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the Commission Secretary. Please return ballot no later than date and time shown above.

DATE: _____ SIGNATURE: _____

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

10092650596



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

March 30, 2009

Jeffrey S. Berger, as Treasurer
Charlie Stuart for Congress
P.O. Box 560908
Orlando, FL 32856

C00411603
AF# 1913

Dear Mr. Berger:

On December 18, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Charlie Stuart for Congress and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$10,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Jill I. Sugarman
Reviewing Analyst
Office of Administrative Review

Attachment

10092650597

April 8, 2009

Federal Elections Commission
Office of Administrative Review
999 E. Street, NW
Washington, DC 20463

C00411603
AF#: 1913

Attn: Jill I. Sugarman
Reviewing Analyst

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
2009 APR -9 P 3 25

Response to Reviewing Officer's Recommendation:

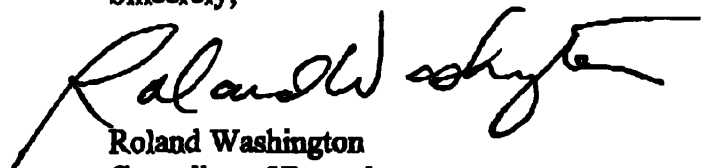
We are comfortable that your recommendation to the Commission details the alignment of all the facts of this case. However, our basic posture is sustained by the language of the same §111.35(b) (iii), "the existence of extraordinary circumstances beyond the control of the respondent..."

It is our hope that the reviewing officer might be able to enlighten us as to what case history would, with clarity, consider "extraordinary circumstances beyond the control of the respondent." In the absence of such examples and the case made to affirm the decisions in such examples, extraordinary circumstances beyond our control remains relative to the respondents general predicament; substantive awareness of the law and the degree of possible penalties, knowledge of options, access to alternative resources and personal capacity.

With any full examination at random, we would find and agree that often times campaign operations that result in a loss, suffer the introduction of certain unforeseen circumstances and end in a state of disarray that extends far beyond the scope of the management of usual affairs. We tried to repair the course of our delayed actions with all diligence and resources at our disposal at the time.

Please consider this reply submitted in the spirit of respect and cooperation.

Sincerely,



Roland Washington
Custodian of Records
Charlie Stuart for Congress

86505926001



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 APR 30 P 3:48

April 30, 2009

MEMORANDUM

SENSITIVE

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

By: Jill I. Sugarman
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1913 – Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer (C00411603)

On December 18, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report. As a result, the Commission also made a preliminary determination that the civil money penalty was \$10,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 22, 2009, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated March 26, 2009 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$10,000 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f).

On April 9, 2009, the Commission received the written response from Mr. Washington. The response is attached for your review. He does not raise any new facts about the issues raised in the challenge and addressed in the Reviewing Officer recommendation as they are "comfortable that [the] recommendation ... details the

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alignment of all the facts.” He contends, however, that their situation is supported by the language at 11 C.F.R. § 111.35(b)(iii) for “the existence of extraordinary circumstances beyond the control of the respondent.” He asks for examples of circumstances that meet this definition and, in the absence of such examples, argues that the phrase is relative to the respondents’ general predicament, substantive awareness of the law and degree of possible penalties, knowledge of options, access to alternative resources and personal capacity.

The extraordinary circumstances defense has been supplanted with the best efforts defense, under which the Commission may decide that no violation occurred because the respondents used their best efforts to file on time. 11 C.F.R. § 111.35(b)(3) and (c). The best efforts defense is a two-part test and the first part consists of the respondents demonstrating that they were prevented from filing on time by reasonably unforeseen circumstances that were beyond their control. With respect to this defense, the Commission states in its Explanation and Justification that the respondent bears the burden of showing that the reasonably unforeseen circumstances in fact prevented the timely and proper filing of the required report. The Commission has decided that this rule requires a strict causal relationship between the circumstances described in the challenge and the respondent’s inability to timely file the report. This defense is an objective test, which uses a reasonable person standard and does not depend upon the committee’s treasurer or staff’s subjective ability to foresee a particular circumstance.

The regulations provide three examples of circumstances considered reasonably unforeseen and beyond the respondents’ control. These include: a failure of Commission computers or Commission-provided software despite the respondent seeking technical assistance from Commission personnel and resources, a widespread disruption of information transmissions over the Internet not caused by any failure of the Commission’s or respondent’s computer systems or Internet service provider, and severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). None of these circumstances apply here. As noted in the Reviewing Officer recommendation, neither the candidate’s ability to pay nor their outreach effort before filing the report are considered reasonably unforeseen and beyond their control.

The regulations also provide examples of circumstances not considered reasonably unforeseen and beyond the respondents’ control. These include: negligence; delays caused by committee vendors or contractors; illness, inexperience, or unavailability of the treasurer or other staff; committee computer, software or Internet service provider failures; a committee’s failure to know filing dates; and a committee’s failure to use filing software properly. 11 C.F.R. § 111.35(d). As pointed out in the Reviewing Officer recommendation, negligence and unavailability of staff (the report was not filed timely because the Committee’s finance director had exclusive access to the data and did not respond to repeated requests for it) are not considered reasonably unforeseen.

The Reviewing Officer recommends that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$10,000.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1913 involving Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1913 that Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$10,000; and
- (3) Send the appropriate letter.

Attachment

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation:) AF 1913
Charlie Stuart for Congress and Jeffrey S.)
Berger, as Treasurer (C00411603))

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby
certify that on May 15, 2009, the Commission decided by a vote of 6-0 to take the
following actions in AF 1913:

1. Adopt the Reviewing Officer recommendation for AF 1913 involving
Charlie Stuart for Congress and Jeffrey S. Berger, as Treasurer, in
making the final determination.
2. Make a final determination in AF 1913 that Charlie Stuart for Congress
and Jeffrey S. Berger, as Treasurer, violated 2 U.S.C. § 434(a) and
assess a civil money penalty of \$10,000.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and
Weintraub voted affirmatively for the decision.

Attest:

May 15, 2009
Date

Mary W. Dove
Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 10, 2009

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey S. Berger, as Treasurer
Charlie Stuart for Congress
P.O. Box 560908
Orlando, FL 32856

C00411603
AF# 1913

Dear Mr. Berger:

On December 18, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Charlie Stuart for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report. By letter dated December 22, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$10,000 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 22, 2009, the Office of Administrative Review received the written response from Mr. Washington challenging the RTB civil money penalty.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Charlie Stuart for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$10,000 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on March 30, 2009.

On April 9, 2009, the Commission received the response from Mr. Washington. On May 15, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Charlie Stuart for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$10,000. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). The failure to raise an

argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If You Choose Not to Pay the Civil Money Penalty and Not to Appeal

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

If You Choose to Pay the Civil Money Penalty

If you should decide to pay the civil money penalty, send the enclosed form and payment to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Jill Sugarman on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,



Steven T. Walther
Chairman

Attachment

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$10,000 for the 2008 October Quarterly Report.

This penalty should be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
PO Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC # 979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Charlie Stuart for Congress

FEC ID#: C00411603

AF#: 1913

PAYMENT AMOUNT DUE: \$10,000

FOR: Charlie Stuart for Congress

FEC ID#: C00411603

AF#: 1913

PAYMENT AMOUNT DUE: \$10,000

Partial payment of
\$2,000 by
check # 3139

3

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0000200000 BA# 1 07-24-09 20 4



18092658686

us bancorp.

3139

00-015001

July 26, 2009

DATE

FEDERAL ELECTIONS COMMISSION

\$ 2,000.00

Two thousand and 00/100

DOLLARS

Premium Banking

SUNTRUST ACH RT 001000104

AF# 1913

CR

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0000200000 BA# 1 12-04-09 20 4



us bancorp.

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00-015001

Nov. 30, 2009

DATE

FEDERAL ELECTIONS COMMISSION

\$ 2,000.00

Two thousand and 00/100

DOLLARS

Premium Banking

SUNTRUST ACH RT 001000104

AF 1913

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QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0000600000 BA# 1 02-01-10 20 3



usbankcorp.

Charles S Stuart 05-0000		3173
[Redacted]		00-010001
1/28/10		DATE
Federal Election Comm.		\$ 6,000.00
Six thousand and 00/100		DOLLARS
SUNTRUST		Premium Banking
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# 1913 - in full amt		C/S Stuart

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FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1913

DATE SCANNED 3/29/10

SCANNER NO. 2

SCAN OPERATOR ESS

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